

SEEGERWEISS LLP

October 20, 2022

VIA CM/ECF & FED-EX

Honorable Yvonne Gonzalez Rogers
U.S.D.C., Northern District of California
Oakland Courthouse
1301 Clay Street, Courtroom 1, 4th Fl.
Oakland, California 94612

**Re: *In Re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation, MDL No. 3047, Case No. 4:22-md-03047-YGR*
Application for Appointment as Co-Lead Counsel**

Dear Judge Gonzalez Rogers:

I respectfully submit this Application for appointment as Co-Lead Counsel. My firm represents more than 1,000 clients and is counsel of record in 21 cases transferred, or in the process of being transferred, to the Court, including some of the earliest cases alleging product liability claims concerning Defendants' social media platforms. Enclosed is a copy of my firm's resumé (Exhibit A) and list of counsel supporting my application (Exhibit B).

I am a founding partner of Seeger Weiss LLP. Our firm is broadly regarded as one of the nation's preeminent trial law firms, with an established track record of helping lead some of the most complex and impactful cases on behalf of injured parties. Our cases frequently are at the forefront of the law on issues of importance to our communities, whether redressing the Opioid epidemic, obtaining life-changing benefits for former NFL players and their families, compensating thousands of veterans injured by 3M's defective earplugs, seeking long-overdue justice for the family of Henrietta Lacks, or, here, holding Defendants accountable for victimizing our children.

During the past 25 years, I have had the privilege to lead some of the most groundbreaking and socially consequential litigations in the U.S., securing key jury verdicts and negotiating innovative, effective mass- and class-action settlements collectively (and at times individually) recovering tens of billions of dollars for injured or aggrieved individuals.

By virtue of my disciplined, earnest, and honest approach to litigation and conflict resolution, I have earned the trust of my peers, adversaries, and the judges before whom I have appeared. For example, I served as Co-Lead Counsel and chief negotiator in *In re NFL Players' Concussion Injury Litig.*, MDL No. 2323 (E.D. Pa.). I am proud of the results obtained for the thousands of former NFL players, which required thoughtful and creative solutions to numerous legal and scientific challenges. The Honorable Anita Brody wrote that the "successful implementation of the [NFL] settlement agreement to date is a credit to the work done by the attorneys at Seeger Weiss." Regarding my work in *In re Syngenta AG MIR162 Corn Litig.*, MDL No. 2591 (D. Kan.), Special Master Ellen Reisman wrote, "Mr. Seeger served ably as the chair of the PSC, keeping discussions going even when they (frequently) seemed in danger of breaking down. It is the judgment of Special Master Reisman and Special Master Stack that without Mr. Seeger's involvement in the process, a resolution would not

have been reached.” In adopting Special Master Reisman’s report, Judge Lungstrum wrote that I “contributed more than any other attorney in accomplishing the settlement of the litigation.”

I take pride in my ability to build broad consensus among diverse plaintiff constituencies, generating agreement among peer and rival firms, and unifying large leadership groups. I have a reputation for taking reasonable positions in negotiations, whether with opposing parties and counsel, or with divergent factions of plaintiffs and co-counsel. *Syngenta*, for example, required delicate negotiations that spanned several federal and state jurisdictions, and required the balancing of different constituencies’ interests, including federal and state classes and tens of thousands of individual plaintiffs. I also had to build trust with mediators and Syngenta itself, which had fought the litigation spiritedly. I brought these disparate interests together to achieve a \$1.51 billion settlement.

Relevant Experience and Court Appointments

I bring to this matter insights gained from my work as court-appointed Co-Lead Counsel for the plaintiffs in the *NFL* litigation. The case presented significant legal and procedural challenges, including federal preemption, causation, and sub-classing issues. It was a potential quagmire that could have delayed the relief our class members urgently needed. As chief negotiator, I navigated these complexities and successfully led settlement negotiations to obtain an uncapped monetary award fund that to date has resulted in the distribution of over \$1 billion and a medical testing program for thousands of former NFL players—results overwhelmingly supported by the class.

I served on the PSC and Settlement Committee in *In re Volkswagen “Clean Diesel” Mktg., Sales Practices and Prods. Liab. Litig.*, MDL No. 2672 (N.D. Cal.). My colleagues and I worked intensively for the better part of a year to obtain comprehensive settlements with Volkswagen worth more than \$20 billion for class members (including an optional “buyback” program), plus billions more in environmental relief. Volkswagen, and not the class members, paid class counsel’s fees and costs. Similarly, in *In re Zyprexa Prods. Liab. Litig.*, MDL No. 1596 (E.D.N.Y.), in which I was appointed as Liaison Counsel, I was one of the chief negotiators of a \$700 million settlement, followed by a \$500 million second-round settlement that benefitted tens of thousands of individuals, where I uniquely served as a liaison between plaintiffs’ and defense counsel. For the past several years, I’ve served on the court-appointed PEC and Negotiating Committee in *In re National Prescription Opiate Litig.*, MDL No. 2804 (N.D. Ohio), in which I also served as Co-Lead Counsel for an innovative Negotiation Class. To date, our Committee (along with State Attorneys General) has secured global settlements that will provide tens of billions of dollars in gravely-needed funding to help abate the Opioid epidemic. I also serve as court-appointed Interim Co-Lead Counsel in *In re 3M Combat Arms Earplug Prods. Liab. Litig.*, MDL No. 2885 (N.D. Fla.); *In re Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Litig.*, MDL 3014 (W.D. Pa.); and *Lindsay Aberin v. American Honda Motor Company, Inc.*, Case No. 16-cv-04384-JST (N.D. Cal.).

Even when I have not been selected for a leadership role, courts and peers have called on me to “unofficially” lead negotiations. For example, in the *Syngenta* litigation, although I was not appointed to the PSC, I was made the chair of the Negotiating Committee by Judge Lungstrum, resulting in a \$1.51 billion nationwide settlement.

My success at the negotiating table is built on my success in the courtroom. Counsel know I am willing and able to take large, complex cases to trial. On many occasions, my bellwether trial successes have led to global settlements. For example, *In re Vioxx Prods. Liab. Litig.*, MDL No. 1657 (E.D. La.), in which I was appointed as Co-Lead Counsel, settled for \$4.85 billion just months after my colleagues

and I obtained a \$47.5 million bellwether jury verdict. Similarly, in *In re Chinese-Manufactured Drywall Prods. Liab. Litig.*, MDL No. 2047 (E.D. La.), I was appointed Chair of the Plaintiffs' Trial Committee and lead trial counsel in a string of bellwether trials. The successful verdicts in those cases paved the way for a national settlement valued at approximately \$1 billion.

Judges familiar with my work include: *Vioxx & Chinese-Manufactured Drywall*: Hon. Eldon E. Fallon, 504-589-7545; *Volkswagen "Clean Diesel"*: Hon. Charles R. Breyer, 415-522-2062; *NFL Players' Concussion Injury*: Hon. Anita B. Brody, 215-597-3978; *Syngenta*: Hon. John W. Lungstrum, 913-735-2320; *Aberin v. Honda*: Hon. Jon S. Tigar, 510-637-3547; *3M Combat Earplugs Litig.*: Hon. M. Casey Rodgers, 850-435-8448; *CPAP*: Hon. Joy Flowers Conti, 412-208-733.

Willingness and Ability to Commit the Required Time and Resources

My firm possesses ample personnel, funding, and other resources to prosecute this matter in a timely and efficient manner. In addition to our time, we have invested millions of dollars in cases in which we have leadership positions. As my track record demonstrates, I will prioritize the interests of all claimants and am personally ready, able, and eager to commit to whatever path is needed to obtain the most favorable outcome in this litigation—trial, negotiation, or both. Our team includes Matthew P. Bergman, who founded the Social Media Victims Law Center, the nation's only law firm exclusively focused on children injured by social media. We also are accompanied in this matter by the esteemed Professor and former Dean Robert Klonoff of Lewis & Clark Law School. Professor Klonoff served as the academic member of the Federal Civil Rules Advisory Committee and Associate Reporter to the American Law Institute's *Principles of the Law of Aggregate Litigation*. He is a co-author of Wright & Miller's *Federal Practice and Procedure* and the author of leading texts on MDLs. He also has vast complex litigation experience as a practicing lawyer and expert witness.

Cooperation With Other Counsel

With each appointment, a court entrusts me with the responsibility to lead the litigation efficiently and effectively. I maintain the highest standards of ethics and collegiality and expect no less from my colleagues. My commitment to effective cooperation is shown by the settlements I have helped broker in even the most high-pressure, publicly scrutinized cases.

I believe deeply that, when carried out with skill, mutual respect, and common sense, litigation serves a critical role in our democracy. I am therefore committed to sharing the experience, knowledge, and insight I have gained with my current and future colleagues by teaching, speaking, and writing on mass torts, MDLs, and class actions, as outlined in my resumé. Equally important, I am focused on ways to *improve* how the bar and the bench work together to best achieve the end goal—ensuring that wronged parties get fair and effective representation and relief. Toward that end, I serve on the Board of Advisers for the Center on Civil Justice at New York University School of Law and the Advisory Council for the Duke Conferences (part of the Duke Law School Center for Judicial Studies), through which my colleagues and I contribute to the development of best practices for MDLs.

I would be honored to serve the interests of the plaintiffs in these cases.

Respectfully,

/s/ Christopher A Seeger
Christopher A. Seeger

SEEGERWEISS LLP

COMPLEX LITIGATION | SIMPLE JUSTICE

EXHIBIT A

Firm Overview

Seeger Weiss is one of the preeminent trial law firms in the nation, known for its high-stakes, landmark verdicts and settlements in multidistrict mass tort and class action litigation on behalf of consumers, athletes, farmers, municipalities, and other injured parties. Headquartered in Ridgefield Park, New Jersey, the firm has led and tried some of the most complex and high-profile litigations in the U.S. in both state and federal courts, including multiple bellwether trials, since its founding in 1999.

Professionals

Managing Partner(s): Christopher A. Seeger, Stephen A. Weiss, David R. Buchanan

Number of partners: 12

Number of lawyers: 40

Languages: English, Hindi, Korean, Russian, Spanish, Urdu

Offices

55 Challenger Road, Suite 600 77 Water Street, Suite 800 1515 Market Street, Suite 1380
Ridgefield Park, New Jersey 07660 New York, New York 10005 Philadelphia, Pennsylvania 19102

Representative Matters

Consumer Protection/Product Liability:

- *In re 3M Combat Arms Earplug Prods. Liab. Litig.*: Co-Lead Counsel prosecuting product liability claims arising from medical product.
- *In re Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Litig.*: Co-Lead Counsel prosecuting product liability claims arising from medical product.
- *In re Nat'l Prescription Opiate Litig.*: Plaintiffs' Executive Committee prosecuting nuisance, negligence, fraud, and related claims.
- *In re Intel Corp. CPU Mktg., Sales Practices and Prods. Liab. Litig.*: Co-Lead Counsel prosecuting consumer fraud, product defect and related claims.
- *In re Davol, Inc./C.R. Bard Inc. Polypropylene Hernia Mesh. Prods. Liab. Litig.*: Executive Committee prosecuting product liability claims arising from medical product.
- *Volkswagen "Clean Diesel" Marketing, Sales Practices and Prods. Liab. Litig.*: Steering Committee. Over \$20 billion settlement on behalf of over 500,000 plaintiffs.
- *In re Mercedes-Benz Emissions Litig.*: Co-Counsel prosecuting class action alleging consumer fraud, RICO, and related claims.
- *Fenner v. General Motors Co.*: Co-Counsel prosecuting class action alleging consumer fraud, RICO, and related claims.
- *In re Syngenta AG MIR 162 Corn Litig.*: Member of Plaintiffs' Executive Committee that obtained certification of 8 statewide and 1 nationwide class, and Member of Plaintiffs' Settlement Negotiating Committee & principal negotiator. \$1.51 billion nationwide settlement.
- *In re FieldTurf Artificial Turf Mktg. & Sales Litig.*: Co-Lead Counsel prosecuting fraud, product defect, and related claims.
- *Chinese-Manufactured Drywall Prods. Liab. Litig.*: Lead trial counsel & Trial Committee chair.

Over \$1 billion settlement on behalf of nearly 5,000 plaintiffs.

- *Depuy Orthopaedics, Inc. ASR Hip Implant Prods. Multidistrict Litig.*: Executive Committee. \$2.5 billion settlement.

Personal Injury:

- *In re NFL Players' Concussion Injury Litig.*: Co-lead counsel & chief negotiator. Over \$1 billion uncapped settlement fund plus medical testing program on behalf of over 20,000 plaintiffs.
- *Wildcats Bus Crash Litig.*: Lead counsel. \$2.25 million verdict followed by \$36 million settlement on behalf of 11 plaintiffs.

Drug Injury:

- *In re Proton-Pump Inhibitor Prods. Liab. Litig. (No. II)*, MDL No. 2789 (D.N.J.): Co-Lead Counsel representing individuals injured by gastric acid reduction medication.
- *In re Testosterone Replacement Therapy Prods. Liab. Litig.*: Co-lead counsel & lead trial counsel representing individuals injured by testosterone medication.
- *In re Invokana Prods. Liab. Litig.*: Co-lead counsel representing individuals injured by diabetes medication.
- *Vioxx Prods. Liab. Litig.*: Co-lead counsel. \$4.85 billion global settlement on behalf of more than 45,000 plaintiffs in approximately 27,000 claims.
- *Zyprexa Prods. Liab. Litig.*: Liaison counsel. \$700 million first-round settlement and \$500 million second-round settlement.
- *Kendall v. Hoffman-La Roche, Inc.*: Co-trial counsel. \$10.6 million verdict on behalf of plaintiff.
- *McCarrell v. Hoffman-La Roche, Inc.*: Liaison counsel. \$25.16 million verdict on behalf of plaintiff.
- *Rossitto & Wilkinson v. Hoffmann La Roche, Inc.*: Lead trial counsel. \$18 million verdict on behalf of two plaintiffs.
- *Accutane Litigation*: Lead trial counsel. \$25.5 million verdict on behalf of plaintiff.
- *Humeston v. Merck & Co.*: Co-trial counsel. \$47.5 million verdict on behalf of plaintiff.
- *Vytorin/Zetia Marketing, Sales Practices and Prods. Liab. Litig.*: Co-liaison counsel & principal negotiator. \$41.5 million settlement.
- *Phenylpropanolamine (PPA) Prods. Liab. Litig.*: Co-lead counsel & principal negotiator. \$41.5 million nationwide settlement.

Antitrust:

- *In re German Automotive Mfrs. Antitrust Litig.*: Plaintiffs' Steering Committee prosecuting consumer antitrust claims.
- *In re Liquid Aluminum Sulfate Antitrust Litig.*: Plaintiffs' Steering Committee prosecuting antitrust class action on behalf of water treatment chemical purchasers.
- *In re Polyurethane Foam Antitrust Litig.*: Executive Committee. Approximately \$428 million settlement on behalf of plaintiffs.

Toxic Exposure:

- *Bayer CropScience Rice Contamination MDL*: Executive Committee. \$750 million settlement.
- *"StarLink" Corn Products Litig.*: Co-lead counsel. \$110 million settlement.
- *Owens v. ContiGroup Companies*: Lead trial counsel. \$11 million settlement for 15 plaintiffs.

Exhibit B

I have the support of the individuals listed below to serve as Co-Lead Counsel. I also believe they would be effective in the leadership roles indicated.

- Lexi Hazam, Lieff Cabraser (Co-Lead)
- Emily Jeffcott, Morgan & Morgan (Co-Lead)
- Joseph VanZandt, Beasley Allen (Co-Lead)
- Jennie Anderson, Andrus Anderson (Liaison)
- Ron Austin, Ron Austin Law (PSC)
- Matt Bergman, Social Media Victims Law Center (PSC)
- James Bilsborrow, Weitz Luxenberg (PSC)
- Paige Boldt, Watts Guerra (PSC)
- Tom Cartmell, Wagstaff Cartmell (PSC)
- Jayne Conroy, Simmons Hanly Conroy (PSC)
- Carrie Goldberg, C.A. Goldberg Victims' Right Law Firm (PSC)
- Kirk Goza, Goza & Honnold (PSC)
- Sin-Ting Mary Liu, Aylstock, Witkin, Kreis & Overholtz (PSC)
- Andre Mura, Gibbs Law Group (PSC)
- Emmie Paulos, Levin, Papantonio, Rafferty (PSC)
- Roland Tellis, Baron & Budd (PSC)
- Alexandra Walsh, Walsh Law (PSC)
- Previn Warren, Motley Rice (PSC)
- Michael Weinkowitz, Levin, Sedran & Berman (PSC)